



How To Have a Successful Mediation

1. Create a Plan

Parties find Mediation more useful when they come prepared and with a plan. Come prepared with an agenda and thoughts about what you would like to propose to the other side in order to resolve the dispute.

2. Speak to an Attorney

If you have any questions about the law or if you need legal advice, use one of the following resources for more information:

- Community Legal Aid: Phone (330) 983-2700, Website <https://www.communitylegalaid.org>
- University of Akron Legal Clinic: Phone (330) 972-7189
- Akron Bar Association: Phone (330) 253-5007, Website <https://www.akronbar.org>
- Akron Fair Housing: Phone (330) 376-6191, Website <https://fairhousingakron.org>

Additional Resources:

2-1-1 Summit County Resource Databank: <http://www.211summit.org>

3. Make an Offer

In Mediation, no one will force a party to accept an offer. If your offer only meets your interests and does not meet the other party's interests, it is unlikely that the other party will accept your offer.

When thinking of the terms for your offer, it may be helpful for you to pretend that you are in the other party's shoes. If you were in their shoes, what type of offer would you accept? If you were in their shoes, what type of offer would you reject?

4. Respond to the Offer

When a party makes an offer to you, it is up to you to decide if you accept or reject that offer. If the offer works for you, say so. Then parties can talk more about the specifics of the agreement. If the offer doesn't work for you, it is helpful if you explain why the offer doesn't work. Just saying "no" is not a productive response.

5. Make a Counteroffer

When you decline an offer and explain why, you can make a counteroffer. The counteroffer should follow the same process as an offer. A good counteroffer moves the negotiation toward a “middle ground” where all the parties can come to an agreement. Many times negotiations require the parties to make multiple counteroffers to reach an agreement.

6. Agreement

Any agreement in Mediation must be acceptable to both parties. It is up to you to propose and accept a plan that works for you and also meets the interests of the other party.

If you reach an agreement through dispute resolution, the mediator will provide an agreement.

Any agreement will include the terms that clearly explain the responsibilities of each party. The agreement will outline who will do what, where, when, and how. Most importantly, an agreement outlines of what will happen if a party does not follow the agreement.

7. Conditions to Agreement

In order to accept your offer, the other party may require you to agree to certain conditions. Conditions are dependent upon terms of the mediated agreement and status of the lawsuit or cause of action filed with the Akron Municipal Court.

This list is not complete, but examples of those conditions might be:

- Payment Plan and Judgment: A payment plan with a judgment in the other party's favor (this is also called an Agreed Judgment Entry and is only available if a lawsuit or cause of action is filed).
- Dismissal: A dismissal of your claim or counterclaim if there is lawsuit or cause of action filed.
- Confidentiality Agreement: A promise that you will not share the terms of the agreement with others.

If you reach agreement with the other side, be sure that you understand the conditions in the agreement that you are signing. If you have a question, ask. If you reach agreement in mediation and the other side tells you they will send the agreement to you later for you to sign, be sure that the agreement sent contains the terms that were agreed upon. If you do not understand an agreement, or have questions about how an agreement may impact your rights or credit, ask an attorney.

8. No Agreement

If no agreement is reached during Mediation then the dispute will continue. If Mediation takes place prior to the filing of a lawsuit, this means that a lawsuit may be filed.

If a lawsuit is filed and Mediation is not successful, then the case will proceed to hearing and a magistrate will hear your evidence and make a determination based on the evidence presented. Then, a judge will sign a final judgment in the case.

If a judge enters a judgment, then the winning party could use collections procedures to collect money or property against the losing party.

9. Payment Plans

If you are offering a payment plan as a resolution, you may want to consider the following:

- How much will you pay in total?
- How much will each installment payment be?
- How often will you pay? (weekly, monthly, etc.?)
- What are the due dates for each payment?
- How is payment to be delivered (in person, by mail, etc.?)
- What is the form of payment (check, cash, money order, etc.?)
- If you are involved in a Court case, is the other side asking that you agree to a judgment in order to accept the payment plan?

Whatever you agree to, be sure that it is something that you are confident you can follow through on. If your payment plan offer becomes part of an agreement, there may be negative consequences if you fail to follow through (for example, garnishments, or a judgment, etc.).

10. Personal Property

Sometimes a party wants the return or repair of personal property. In Mediation, parties can work out arrangements related to the return or repair of personal property on terms that work for them.

However, if you file a Small Claims lawsuit, the Small Claims Court cannot award the return of personal property. The Small Claims Division only has the authority to hear cases for money damages that do not exceed \$6,000, not including interest and court costs.